

# **Fifteenth Annual Report**



**Multistate  
Tax Commission**

**Fiscal Year 1981-1982**

For the fiscal year of July 1, 1981-June 30, 1982

*Multistate Tax Commission*



EUGENE F. CORRIGAN, Executive Director

November 1, 1982

To the Honorable Governors and State Legislators of Member States  
of the Multistate Tax Commission.

The purpose of the Multistate Tax Commission is to bring even further uniformity and compatibility to the tax laws of the various states of this nation and their political subdivisions insofar as those laws affect multi-state business, to give both business and the states a single place to which to take their tax problems, to study and make recommendations on a continuing basis with respect to all taxes affecting multistate businesses, to promote the adoption of statutes and rules establishing uniformity, and to assist in protecting the fiscal and political integrity of the states from federal confiscation.

I respectfully submit to you the fifteenth annual report of the Multistate Tax Commission. This report covers the Commission's activities for the fiscal year beginning July 1, 1981 and ending June 30, 1982. It includes a report on receipts, expenditures and operations for that period from Rhode, Scriptor & Associates, Certified Public Accountants in Boulder, Colorado.

Respectfully submitted,

A handwritten signature in cursive script that reads "Eugene F. Corrigan".

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# Executive Director's Report

## New Times, New Challenges

### Federal Policy's Effect on States

The new national philosophy of shifting various activities and responsibilities back to the states has created great problems for the states, not the least of which is a decline in revenues. Revenues are being threatened not only by the recession but by federal corporate tax law changes. The federal tax changes have a direct effect upon states which, in an effort to improve uniformity and administrative efficiency, have tied their tax bases to the federal tax base.

The drastic federal tax changes produced by Congress in two successive years have given those states cause to wonder whether it is wise to continue such ties. Many of them already have enacted legislation aimed at "decoupling" from the federal tax law in one way or another. Of special concern is the new federal accelerated cost recovery system (ACRS), which includes special tax advantages for safe harbor leases (SHL's). To date, attempts to fend off the effects of ACRS and/or SHL's have been varied. The Multistate Tax Commission has devoted substantial time and effort to developing recommendations concerning SHL's. It will hold a workshop on the subject in early December.

### Supreme Court Discourages Piggybacking

Meanwhile, the U.S. Supreme Court dealt a blow to the idea that a state can adopt the federal tax base without making special adjustments. In *F.W. Woolworth Co. v. Taxation and Revenue Department of the State of New Mexico*, No. 80-1745 (June 29, 1982), the Court ruled that a state cannot "gross up"

dividends; it cannot include in its apportionable base the full amount of the net income out of which dividends were paid by foreign corporations, i.e. before payment of foreign taxes. The Internal Revenue Code allows such gross up at the taxpayer's option; but the advantage of the option for federal tax purposes is that it also allows the taxpayer to take a credit against its federal income tax for foreign income taxes paid on that income. No such advantage accrues to the taxpayer for state tax purposes. This ruling had the effect of demonstrating the questionable merit of trying to tie a state corporate income tax system to that of the U.S. Government. The systems are different in nature and often are different in purpose. Fortunately, the ruling on gross up affected only a very few states. More far-reaching were other aspects of the *Woolworth* case, coupled with another decision of the same day.

### Supreme Court Requires Full Substantiation of Unities

In *ASARCO Incorporated et al. v. Idaho State Tax Commission*, No. 80-2015 (June 25, 1981) and *Woolworth*, the Court established challenges which have the effect of emphasizing the need for greater and more extensive cooperation among the states in administering their corporate income tax laws. Indeed, the decisions already appear to have brought the states closer together in philosophy than has previously been the case. The Multistate Tax Commission hopes that this presages increased support of, and participation in, its efforts by all states.

The likelihood of that's happening was bolstered by the participation of 34 states, the National Governors' Association, the National Association of Tax Administrators, and the Western States Association of Tax Administrators in a Petition for Rehearing and a supporting *amicus* brief which was submitted to the Supreme Court. Even though the Court rejected the Petition and Brief, the nature of the interaction and cooperation was significant.

The effect of the decisions is to require a state auditor to obtain much more information from the taxpayer than has been the general practice in the past. Thus, the Supreme Court has given strong affirmation to a stance which the MTC has taken for several years. The Commission earlier litigated the matter with Merck in the Oregon Supreme Court; The Court ordered Merck to supply the requested information, including corporate minutes, and to make officers available for interviews as needed. *Multistate Tax Commission v. Merck*, 289 Ore. 707 (1980). A decision is currently pending in a similar litigation effort against Dow Chemical Co. *Multistate Tax Commission et al. v. Dow Chemical Co.*, Ore. TC#1835.

At issue in these cases has been the right to have access to documents such as corporate minutes, committee minutes and key personnel for the purpose of determining the extent and nature of relationships between parents and subsidiary and affiliated corporations. The need to obtain such information was emphasized by the ASARCO and Woolworth decisions. The gist of those decisions is that dividends received by a parent from a subsidiary cannot be included in the parent's apportionable income unless there is a sufficient relationship between the activities of the subsidiary and the business of the parent. Any auditor will have to dig deep in order to appraise such relationships adequately.

## Possible Legislative Response

Meanwhile, Governor John Evans of Idaho has suggested that it is time for the states to ask Congress to act. He would request constructive legislation which would promote uniformity and fairness in state taxation of interstate commerce; which would ensure that all of the income of interstate business would be attributed among the states in which the business is operated. His objective is to enable the states to reach "nowhere" income, which now is, as a practical matter, beyond the tax reach of any state.

## Other Supreme Court Cases Pending

In June, the Supreme Court set over for a rehearing in the October 1982 term, a case which it had heard in April in tandem with ASARCO and Woolworth. In *CBI v. Caterpillar Tractor Co., et al*, Docket No. 81-349, the Court had before it for the first time a question as to the right of a state to require or of a taxpayer to demand that combination be applied to a multicorporate unitary business. While the California Supreme Court had upheld such a combination in *Edison California Stores v. McColgan*, 30 Cal. 2d 472, in 1947, the U.S. Supreme Court has never had such a case before it.

It now has pending a second multicorporate combination case, that of *Container Corporation of America v. California Franchise Tax Bd.*, Docket No. 81-523, which is to be heard during the October term. In the *CBI* case, Caterpillar has proved up the factual basis upon which it claims the right to employ a worldwide combined report. In the *Container* case, the taxpayer is maintaining that California has not established a factual record sufficient to support a claim that fair and reasonable tax results have been produced by

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a multicorporate worldwide combination as applied to Container and its affiliates. The manner in which the Court decides that case may well determine the outcome of the *CBI* case and of the combination concept in general.

## MTC Litigation

After the Ninth Circuit Court of Appeals, in October of 1981, upheld the right of the MTC to perform a joint audit of U.S. Steel, in *MTC v. International Harvester, U.S. Steel, et al.*, No. 80-3457, the Commission sought to complete the audit. The remaining information needed pertained primarily to the determination of the parameters of the taxpayer's business. U.S. Steel refused to divulge the requested information, maintaining that the participating states had, by issuing jeopardy assessments to protect themselves against the expiration of statutes of limitations which U.S. Steel refused to waive, forfeited the right to obtain any further information. The MTC asked the Boise federal judge to enforce his prior order, which had been affirmed by the Court of Appeals. In March, the Boise court dismissed the case without ruling on any of the matters before it, ruling that no case or controversy remained before it. The MTC has appealed that action back to the Court of Appeals.

## Other Litigation

Also in March, the Kansas Supreme Court dismissed an action in which Kansas sought to require the use of combination. In that case, *Department of Revenue v. Dow Chemical Co.*, No. 53-382, the court ruled that no case or controversy existed. The Department's request for rehearing was denied. The Department then accomplished its objective, however, when Dow agreed to comply with the

Department's requirement that it file its returns on a combination basis.

## Committees

The state members of the Audit Committee have continued to work closely with the audit manager in expediting the process of selecting and performing audits. Through the Uniformity Committee, the states work with MTC personnel to seek out ways of treating like problems in like manner. One 1982 result was the submission to the Commission of a Proposed Airline Regulation for approval. At its annual meeting, the Commission decided to hold a hearing on the regulation. That will afford both airline personnel and state personnel an opportunity to review further, and to comment upon, the proposal before the Commission takes action on it. That hearing has been set for December 6 in Denver.

During the year a meeting of the Gas and Oil Royalties and Severance Tax Task Force also took place. The consensus at the end of that meeting was that the field currently provides minimal opportunity for constructive interstate cooperation of a type to which the Commission could make a significant contribution. The Commission will monitor developments with a willingness to be involved whenever it can be of service to the states and the business community in the oil and gas field.

A newly created Tax Consistency Task Force met on four different occasions during the year. The group consists of a small number of business representatives and tax administrators. The Task Force has established the following as its Objective and its Strategy:

**OBJECTIVE:** To provide reasonable assurances that any division of income of a multi-state taxpayer for state income tax purposes

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will be achieved in accordance with the application of practices and procedures fairly employed with regular consistency not only by the multistate taxpayer, but also by all taxing agencies asserting tax jurisdiction with respect to such a multistate taxpayer.

#### STRATEGY:

1. Identify the basic concepts which appear to be essential to the satisfaction of the stated objective and which will also tend to define the necessary scope and limitations within which the objective may be satisfied.
2. Develop the specific proposals for attaining the objective within the framework of the foregoing basic concepts.

It is currently considering how best to implement the strategy. It has devoted a substantial amount of attention to seeking a means of achieving uniformity in state tax treatment of safe harbor leases. The Commission is planning a seminar/workshop on that subject in December.

#### Publications

In January, the Commission published the *1982 Handbook of Unitary Business Income Tax Materials*. Consisting of citations of nearly 150 important interstate tax cases, an annotated outline of the development of state corporate income tax practices and procedures, summary briefs of key interstate tax cases, and pertinent articles and materials, the book has proven to be a valuable resource for state tax personnel. A 1981 edition had been published previously. Supplies of both editions have been exhausted.

The Commission has also continued its publication of the *Multistate Tax Commission Review* three times a year. The Review contains current news and articles pertinent to interstate taxation. It is distributed to the MTC's entire mailing list free of charge.

#### Education

The Commission conducted a two-day audit seminar in Boulder in January. Personnel from Deloitte, Haskins & Sells participated extensively in the presentation, contributing significantly to the success of the program.

In May, the Commission conducted a three-day audit-legal seminar/workshop on the unitary business concept. The addition of the workshop aspect to the lecture approach proved to be a popular way of providing for audience participation in the process of determining how best to implement the principle among the states.

#### Pending Federal Bills

The Mathias (S.655) and Conable (H.R. 1983) bills continue to pose a threat to the states. However, the restrictions which they would impose upon the states appear to have lost some of the support which they enjoyed in 1981. It is to be hoped that this indicates a growing recognition of the fact that such restrictions would not enhance uniformity or compatibility in interstate taxation. Only legislation which does have that result can expect ever to receive broad support among the states.

# Staff Members

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## Executive Director

Eugene F. Corrigan became the Commission's first staff member in 1969, after resigning his position as chief counsel of the Illinois Department of Revenue's Chicago office. His prior experience included three years as a Sears, Roebuck tax attorney and ten years with the Illinois Department of Revenue. During the mid-sixties, he was also a partner in the Chicago law firm of Stradford, Lafontant, Fisher & Corrigan. He is a graduate of Princeton University and of John Marshall Law School of Chicago. He offices at the Commission's headquarters in Boulder, Colorado.

## Chief Counsel

William D. Dexter was an assistant attorney general in Michigan's Treasury Department and, subsequently, in the Washington Department of Revenue before becoming the Multistate Tax Commission's General Counsel in 1975. His first MTC assignment was to expedite the then languishing case of *U.S. Steel, et al. v. Multistate Tax Commission, et al.* He pursued that case to early fruition in the U.S. Supreme Court. Meanwhile, he won the *Hertz* case in the Washington Supreme Court. He has participated in innumerable other cases on behalf of the Commission and states in both federal and state courts at all levels throughout the land. He had also been of counsel to numerous state legal staffs concerning a variety of state and local tax matters.

## Audit Manager

Eugene B. Fischer joined the Multistate Tax Commission in March, 1981. He is a graduate of the Baruch School of the City College of New York and the Brooklyn Law School. A certified public accountant and a member of the New York State Bar, he served as Director

of Taxes at North American Philips, Inc. for three years. Later, after three years in private CPA practice, he rejoined the Philips corporate family as chief tax officer of Polygram Corporation, a position which he held for six years.

# Committees

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## Audit Committee

Robert Kessel, Chairman (Alaska)  
Robert Summers (California)  
Frank Beckwith (Colorado)  
Thomas Sheridan (Kansas)  
Oscar Quoidbach (Oregon)  
Larry Crawford (Texas)

## Uniformity Committee

Horace Gailey, Chairman (Utah)  
John Mintken (Alaska)  
Everett Leath (Arkansas)  
Kendall Kinyon (California)  
Ted V. Middle (Colorado)  
Tomotaru Ogai (Hawaii)  
Frank Medlin (Idaho)  
Tom Sheridan (Kansas)  
Fred Lynch (Michigan)  
Edward Molotsky (Missouri)  
Jerry Foster (Montana)  
Jack Sexton (Nebraska)  
Manny Gallegos (New Mexico)  
Harold Aldinger (North Dakota)  
Oscar Quoidbach (Oregon)

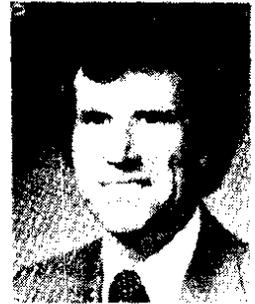
# Multistate Tax Commission Officers\* \_\_\_\_\_



**Kent Conrad—ND**  
Chairman



**Michael Lennen—KS**  
Vice Chairman



**Larry Looney—ID**  
Treasurer

# Executive Committee Members \_\_\_\_\_



**Bob Bullock—TX**



**Ron Loyd—NM**



**Herschel Rose—WV**

Vacancy to be  
filled at  
next meeting  
of Executive  
Committee

**Ex Officio Members  
of Executive  
Committee  
Former Commission  
Chairmen**



**Robyn Godwin**  
OR



**Alan N. Charnes**  
CO



**Gerald Goldberg**  
CA

\*The three officers are also members of the Executive Committee. Terms of the officers, terms, and committee members end at the annual meeting in 1983.

# Representatives of Party States of the Multistate Tax Compact

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11/1/82

## Alaska

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\*Executive Secretary of the Board of Equalization represents California in MTC fiscal years beginning in odd-numbered calendar years, and the Executive Officer of the Franchise Tax Board represents California in MTC fiscal years beginning in even-numbered calendar years.

\*\*\*MTC Chairman 1980-1981

\*\*MTC Chairman 1979-1980

\*\*\*\*MTC Chairman 1981-1982

# Tax Administrators

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# Associate Member States

11/1/82

The Commission has made provisions for associate membership in bylaw 13, as follows:

### 13. Associate Membership

(a) Associate membership in the Compact may be granted, by a majority vote of the Commission members, to those States which have not effectively enacted the Compact but which have, through legislative enactment, made effective adoption of the Compact dependent upon a subsequent condition or have, through their Governor or through a statutorily established State agency, requested associate membership.

(b) Representatives of such associate members shall not be entitled in case or to hold a Commission office, but shall otherwise have all the rights of Commission members.

Associate membership is extended especially for states that wish to assist or participate in the discussions and activities of the Commission, even though they have not yet enacted the Compact. This serves two important purposes: (1) it permits and encourages states that feel they lack knowledge about the Commission to become familiar with it through meeting with the members, and (2) it gives the Commission an opportunity to seek the active participation and additional influence of states which are eager to assist in a joint effort in the field of taxation while they consider or work for enactment of the Compact to become full members.

## Alabama

**Ralph P. Eagerton, Jr.**  
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Jackson, Mississippi 39205  
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## Nevada

**Roy E. Nickson**  
Executive Director  
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Capital Mail Complex  
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## New Hampshire

**Lloyd M. Price**  
Commissioner  
Department of Revenue  
Administration  
615 Spring St., P.O. Box 457  
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## New York

**Robert W. Bouchard**  
Acting Commissioner  
New York State Department of  
Taxation and Finance  
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## North Carolina

**Mark Lynch**  
Secretary of Revenue  
Department of Revenue  
P.O. Box 25000  
Raleigh, North Carolina 27640  
(919) 733-7211

## Oklahoma

**Odie A. Nance**  
Chairman  
State Tax Commission  
The M.C. Connors Building  
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Oklahoma City, Oklahoma 73194  
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## Rhode Island

**John H. Norberg**  
Tax Administrator  
Division of Taxation  
Department of Administration  
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## South Carolina

**Charles N. Plowden**  
Chairman  
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## Vermont

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Commissioner of Taxes  
Department of Taxes  
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## Virginia

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State Tax Commissioner  
Commonwealth of Virginia  
Department of Taxation  
Richmond, Virginia 23215  
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## Wisconsin

**Mark E. Musolf**  
Secretary of Revenue  
125 S. Webster St.  
P.O. Box 8933  
Madison, Wisconsin 53708  
(608) 266-1611

## Wyoming

**Reino Hakala**  
Chairman  
Wyoming Tax Commission and  
Board of Equalization  
2200 Carey Avenue  
Cheyenne, Wyoming 82001  
(307) 777-7961



LIABILITIES AND FUND BALANCE

	<u>1982</u>	<u>1981</u>
<b>CURRENT LIABILITIES</b>		
Accounts payable	\$ 24,514	\$ 11,318
Accrued vacation pay--Note 9	29,669	---
Payroll taxes payable	6,584	5,808
Assessments and audit reimbursements collected in advance	40,000	---
Current portion of long-term debt	<u>33,248</u>	<u>30,390</u>
TOTAL CURRENT LIABILITIES .....	<u>134,015</u>	<u>47,516</u>
 <b>LONG-TERM DEBT</b>		
Obligations under capital leases--Note 2	62,534	88,350
Note payable--Note 5	<u>6,511</u>	<u>10,784</u>
	69,045	99,134
Less: Current portion	<u>33,248</u>	<u>30,390</u>
TOTAL LONG-TERM DEBT .....	<u>35,797</u>	<u>68,744</u>
 <b>FUND BALANCE--Exhibit B</b>		
Unappropriated fund balance	<u>278,784</u>	<u>154,919</u>
TOTAL FUND BALANCE .....	<u>278,784</u>	<u>154,919</u>
TOTAL LIABILITIES AND FUND BALANCE .....	<u>\$ 448,596</u>	<u>\$ 271,179</u>

Exhibit B

MULTISTATE TAX COMMISSION

STATEMENTS OF CHANGES IN FUND BALANCE  
For the years ended June 30, 1982 and 1981

	<u>1982</u>	<u>1981</u>
FUND BALANCE--Beginning of year .....	\$ 154,919	\$ 57,351
Excess of revenue over expenses-- Exhibit C	<u>123,865</u>	<u>97,568</u>
FUND BALANCE--End of year .....	<u>\$ 278,784</u>	<u>\$ 154,919</u>

## MULTISTATE TAX COMMISSION

STATEMENTS OF REVENUE AND EXPENSES

For the years ended June 30, 1982 and 1981

	<u>1982</u>	<u>1981</u>
<b>REVENUE</b>		
Assessments	\$ 1,045,731	\$ 934,720
Interest	67,620	25,079
Other revenue:		
Legal administrative	24,950	68,373
Miscellaneous	<u>485</u>	<u>2,896</u>
TOTAL REVENUE .....	<u>1,138,786</u>	<u>1,031,068</u>
<b>EXPENSES</b>		
Accounting	7,622	7,150
Bonds and insurance	2,797	4,087
Consulting fees	71,489	54,814
Depreciation and amortization	17,274	46,449
EDP supplies	---	586
EDP terminal lease expense	---	18,676
Employee group insurance	33,749	21,521
Interest expense	13,973	19,814
Legal and legal support	30,637	16,241
Loss on sale of fixed assets	1,970	---
Miscellaneous expense	4,789	3,823
Office supplies	7,487	3,113
Pension plan and retirement provision	74,634	63,638
Postage	9,948	5,881
Printing and duplicating	17,584	15,114
Publications	(7,117)	3,215
Rent	59,887	55,412
Repairs and maintenance	2,558	9,637
Salaries	593,770	464,577
Telephone	25,788	23,042
Travel	41,206	66,086
Utilities	<u>4,876</u>	<u>3,312</u>
TOTAL EXPENSES .....	<u>1,014,921</u>	<u>906,188</u>
EXCESS OF REVENUE OVER EXPENSES BEFORE LOSS .....	123,865	124,880
LOSS ON SALE OF LEASED PROPERTY--Note 3 .....	---	<u>27,312</u>
NET EXCESS OF REVENUE OVER EXPENSES .....	<u>\$ 123,865</u>	<u>\$ 97,568</u>

## MULTISTATE TAX COMMISSION

STATEMENTS OF CHANGES IN FINANCIAL POSITION

For the years ended June 30, 1982 and 1981

	<u>1982</u>	<u>1981</u>
<b>WORKING CAPITAL PROVIDED BY:</b>		
Operations:		
Excess of revenue over expenses	\$ 123,865	\$ 97,568
Add: Charges not requiring the use of working capital:		
Depreciation and amortization	17,274	46,449
Net book value of property and equipment sold	2,395	8,743
Net book value of capital lease sold	<u>---</u>	<u>54,341</u>
Working Capital Provided by Operations .....	143,534	207,101
Decrease in net investment in sales-type lease	<u>5,954</u>	<u>---</u>
<b>TOTAL PROVIDED .....</b>	<b><u>149,488</u></b>	<b><u>207,101</u></b>
<b>WORKING CAPITAL APPLIED TO:</b>		
Investment in sales-type lease	<u>---</u>	30,536
Purchase of property and equipment	29,629	11,128
Decrease in long-term obligations	32,947	29,611
Increase in deposits	<u>---</u>	70
Increase in expense account advances	112	399
Increase in unamortized past services--pension costs	<u>12,427</u>	<u>2</u>
<b>TOTAL APPLIED .....</b>	<b><u>75,115</u></b>	<b><u>71,746</u></b>
<b>INCREASE IN WORKING CAPITAL .....</b>	<b><u>\$ 74,373</u></b>	<b><u>\$ 135,355</u></b>
<b>CHANGES IN WORKING CAPITAL COMPONENTS</b>		
Increase (decrease) in current assets:		
Cash	\$ 157,939	\$ 115,698
Accrued interest receivable	(696)	1,146
Accounts receivable--members	1,929	(7,293)
Current portion of investment in sales-type lease	1,605	4,349
Prepaid expenses	<u>95</u>	<u>(2,777)</u>
	<u>160,872</u>	<u>111,123</u>
Decrease (increase) in current liabilities:		
Accounts payable	(13,196)	647
Accrued vacation pay	29,669	<u>---</u>
Payroll taxes payable	(775)	(1,030)
Accrued pension plan	<u>---</u>	<u>3,448</u>
Assessments and audit reimbursements collected in advance	(40,000)	26,529
Current portion of long-term obligations	<u>(2,858)</u>	<u>(5,362)</u>
	<u>(86,499)</u>	<u>24,232</u>
<b>INCREASE IN WORKING CAPITAL .....</b>	<b><u>\$ 74,373</u></b>	<b><u>\$ 135,355</u></b>

MULTISTATE TAX COMMISSION

NOTES TO FINANCIAL STATEMENTS

June 30, 1982

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Multistate Tax Commission was organized in 1967. It was established under the Multistate Tax Compact, which by its terms, became effective August 4, 1967. The basic objective of the "Compact" and, accordingly, the Commission is to provide solutions and additional facilities for dealing with state taxing problems related to multistate business.

Method of Accounting

The Commission follows the accrual method of accounting whereby assessment revenue is recognized in the fiscal year of assessment. Contributions by states for specific purposes are recognized as income during the year of receipt. Other earned revenue is recognized as it is earned. Expenses are recognized as they are incurred.

Property and Equipment

All property and equipment is stated at cost and depreciated principally on the straight-line basis over the estimated useful lives of the assets which range from 3 to 8 years. Amortization of leasehold improvements is provided for on the straight-line basis over the term of the lease.

NOTE 2 - LEASES

Leases which meet certain criteria are classified as capital leases, and assets and liabilities are recorded at amounts equal to the present value of the minimum lease payments at the inception of the lease. Such assets are amortized over the term of the lease and interest expense relating to the lease liability is recorded to effect constant rates of interest over the lease terms.

Minimum rental commitments under leases having remaining lease terms in excess of one year at June 30, 1982 are as follows:

<u>Fiscal Year Ended</u>	<u>Minimum Lease Payment</u>
June 30, 1983	\$ 36,642
June 30, 1984	34,026
June 30, 1985	<u>2,836</u>
	73,504
Less: Amount representing interest	<u>10,970</u>
Capitalized lease obligation	<u>\$ 62,534</u>

Amortization of capital leases for the years ended June 30, 1982 and 1981 was \$3,800 and \$12,580, respectively.

MULTISTATE TAX COMMISSION

NOTES TO FINANCIAL STATEMENTS (Continued)  
June 30, 1982

NOTE 3 - NET INVESTMENT IN SALES-TYPE LEASE

During the year ended June 30, 1981, the Commission sold property relating to a previously capitalized lease for computer hardware. This sublease has been recorded in accordance with Financial Accounting Standard Board Statement #13 as a sales-type lease.

Total minimum lease payments to be received	\$42,073
Less: Unearned income	<u>11,537</u>
Net investment in sales type lease .....	<u>\$30,536</u>

NOTE 4 - PENSION PLAN

The Commission has a defined benefit pension plan covering substantially all of its employees. The total pension expense for the year was \$74,634, which includes amortization of prior service costs over 10 years. The Commission's policy is to fund pension cost accrued. The actuarially computed value of vested benefits as of June 30, 1982, is fully funded. The plan benefits and plan net assets are presented below:

ACTUARIAL PRESENT VALUE OF ACCUMULATED  
PLAN BENEFITS AT JUNE 30, 1982:

Vested	\$234,922
Nonvested	<u>17,987</u>
	<u>\$252,909</u>

MARKET VALUE OF NET ASSETS AVAILABLE FOR BENEFITS AT JUNE 30, 1982	<u>\$501,938</u>
---	------------------

The assumed rate of return used in determining the actuarial present value of accumulated plan benefits was 6.5% compounded annually.

NOTE 5 - NOTE PAYABLE

	Balance
	<u>June 30, 1982</u>
Manufacturer--6% installment note, collateralized by related equipment, payable in monthly installments of \$400, including interest, with final payment due November 12, 1983.	<u>\$ 6,511</u>

MULTISTATE TAX COMMISSION

NOTES TO FINANCIAL STATEMENTS (Continued)

June 30, 1982

NOTE 6 - COMMITMENTS

The Commission rents its primary office facilities in Boulder, Colorado, and secondary office facilities in New York, Illinois and Washington State, under lease agreements with terms expiring on various dates through August 31, 1988. These leases provide for the following minimum annual rentals exclusive of utility charges and certain escalation charges at Boulder:

<u>Fiscal Year Ended</u>	<u>Minimum Annual Rental</u>
June 30, 1983	\$ 29,917
June 30, 1984	26,610
June 30, 1985	28,266
June 30, 1986	31,614
June 30, 1987	<u>34,614</u>
	151,021
Balance through August 31, 1988	<u>36,414</u>
TOTAL .....	<u>\$187,435</u>

The Boulder facilities lease includes certain escalation charges based on various factors including wage index, utility and property tax increases from a base year.

NOTE 7 - INCOME TAXES

In the opinion of legal counsel, the Commission is exempt from Federal income tax as well as from other Federal taxes as an organization of a group of States or as an instrumentality of those States. Therefore, no provision has been made in the financial statements for Federal income taxes.

NOTE 8 - SUBSEQUENT EVENT

Subsequent to June 30, 1982, the subleases of the computer hardware, as described in Note 3, informed the Commission that they would be in default of the sublease. As a result, title to the computer hardware has reverted back to the Commission and the sale of the property is being attempted. No provision for a loss as a result of this transaction has been recorded due to the undetermined amounts involved.

NOTE 9 - ACCRUED VACATION PAY

In accordance with Statement of Financial Accounting Standards No. 43, "Accounting For Compensated Absences", employees' rights to receive compensation for future absences have been accrued for the year ended June 30, 1982. The Commission believes that retroactive restatement of 1981 statements is not practicable and that the amounts are not material in relation to the financial statements taken as a whole.

# Appendix A

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## Agreement on Exchange of Information [Income Tax]

In the interest of furthering the mutual interests of the undersigned states represented by the undersigned officials through benefits which can be derived from the exchange of information among said states, each of said officials does hereby enter into the following Agreement for the exchange of information with every other undersigned official.

The undersigned hereby mutually agree to exchange information, to the full extent permitted by their respective laws, in accordance with the terms and limitations below:

1. For purposes of this Agreement, income tax means a tax imposed on or measured by net income, including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transaction.
2. This Agreement shall be applicable with respect to:
  - a. The inspection of income tax returns of any taxpayer; and
  - b. The furnishing of an abstract of the return of income of any taxpayer; and
  - c. The furnishing of any information concerning any items contained in any return of income of any taxpayer; and
  - d. The furnishing of any information disclosed by the report of any investigation of the income or return of income of any taxpayer, *exclusive of any information* obtained through an agreement between any of the undersigned states and the Internal Revenue Service.
3. For purposes of this Agreement, taxpayer includes any individual, corporation, partnership or fiduciary subject to an income tax or required to file an income tax return.
4. This Agreement is not limited to a specific period of time or to returns, documents or information relating to any specific years or periods; and it will be considered to be in effect until revoked.
5. Additions and changes, including definitions, in the provisions of this Agreement, may be made by mutual consent of the proper officials of the undersigned states, and shall become an attachment to this Agreement.
6. No information obtained pursuant to this Agreement shall be disclosed to any person not authorized by the laws of the undersigned states.
7. The information obtained pursuant to this Agreement shall be used only for the purpose of administration of the income tax laws of the undersigned states.
8. This written Agreement shall not become effective between any two states until the authorized officials for both such states have signed it in the space provided below.
9. This written Agreement is not intended to revoke or supersede any other similar agreement that may have been previously entered into between any two or more of the states represented below.
10. The undersigned agree to inform each other of the current statutory provisions of their respective states concerning the confidentiality of the material exchanged and the penalties for unlawful disclosure thereof.
11. Any of the undersigned state officials may, at their discretion, refuse to furnish information disclosed in the report of any investigation while such investigation is still in progress or during such time as litigation is contemplated or in process, if the official of the state making the investigation deems it in the best interests of his state for such information to be withheld pending determination of litigation.
12. Each of the undersigned state officials hereby affirms that he is the proper official charged with the administration of the income tax laws of his state.

The above agreement has been executed by the following states under the information sharing authority granted by their statutes. The execution of the Agreement by these states constitutes the equivalent of 210 individual agreements.

### Signatory States

Alaska	Idaho	Michigan	North Carolina
Arkansas	Illinois	Minnesota	North Dakota
California	Indiana	Missouri	Oregon
Colorado	Kansas	Montana	Pennsylvania
Florida	Louisiana	Nebraska	Utah
Hawaii			

# Appendix B

## Agreement on Exchange of Information [Sales and Use Tax]

In the interest of furthering the mutual interests of the undersigned states represented by the undersigned officials through benefits which can be derived from the exchange of information among said states, each of said officials does hereby enter into the following Agreement for the exchange of information with every other undersigned official.

The undersigned hereby mutually agree to exchange information, to the full extent permitted by their respective laws, in accordance with the terms and limitations below:

1. For purposes of this Agreement, sales tax includes general excise and/or gross receipt taxes and means a tax imposed on a sale or exchange of personal property and/or services, as well as on gross receipts from trade or business; and use tax means a tax other than ad valorem tax, on the privilege of storing, using or consuming personal property and/or services.
2. This Agreement shall be applicable with respect to:
  - a. The inspection of sales and use tax returns of any taxpayer; and
  - b. The furnishing of an abstract or the exchange of computer information regarding the sales or use tax return of any taxpayer; and
  - c. The furnishing of any information concerning any items contained in any sales or use tax return of any taxpayer; and
  - d. The furnishing of any information disclosed by the report of any investigation of the sales or use tax return of any taxpayer.
3. For purposes of this Agreement, "taxpayer" includes any individual, corporation, partnership, organization, association, fiduciary, person or other entity, subject to payment or collection and remittance of sales or use tax or required to file a sales or use tax return.
4. This Agreement is not limited to a specific period of time or to returns, documents or information relating to any specific years or periods, and it will be considered to be in effect until revoked by one of the parties; however, the withdrawal of one party hereto shall not affect the Agreements among the remaining parties.
5. Additions and changes, including definitions, in the provisions of this Agreement, may be made by mutual consent of the proper officials of the undersigned states, and shall become an attachment to this Agreement.
6. No information obtained pursuant to this Agreement shall be disclosed to any person not authorized to receive such information by the laws of the undersigned states.
7. The information obtained pursuant to this Agreement shall be used only for the purpose of administration and enforcement of the sales and use tax laws of the undersigned states.
8. This written Agreement shall not become effective between any two states until the authorized officials for both such states have signed it in the space provided below.
9. This written Agreement is not intended to revoke or supersede any other similar agreement that may have been previously entered into between any two or more of the states represented below.
10. The undersigned agree to inform each other of the current statutory provisions of their respective states concerning the confidentiality of the material exchanged and the penalties for unlawful disclosure thereof.
11. Any of the undersigned state officials may, at their discretion, refuse to furnish information disclosed in the report of any investigation while such investigation is still in progress or during such time as litigation is contemplated or in process, if the official of the state making the investigation deems it in the best interests of his state for such information to be withheld pending final determination of litigation.
12. Each of the undersigned state officials hereby affirms that he is the proper official charged with the administration of the sales and use tax laws of his state.

This Agreement may be executed in counterparts, all of which taken together shall be deemed one original Agreement.

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The above agreement has been executed by the following states under the information sharing authority granted by their statutes. The execution of the Agreement by these states constitutes the equivalent of 274 individual agreements.

### Signatory States

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Arkansas	Iowa	Mississippi	South Dakota
California	Kansas	Missouri	Tennessee
Colorado	Louisiana	Montana	Texas
Georgia	Massachusetts	Nebraska	Utah
Idaho	Michigan	North Dakota	Washington
Indiana	Minnesota	Pennsylvania	Wyoming

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# Appendix C

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## Progress in Uniformity Through Adoption of the Uniform Division of Income for Tax Purposes Act Among the States

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Alabama (1)	Georgia (4)	Kentucky	New Hampshire (6)	Pennsylvania
Alaska	Hawaii (2)	Maine	New Mexico	South Carolina
Arkansas	Idaho	Massachusetts (5)	North Carolina	Tennessee
California	Illinois	Missouri (2)	North Dakota	Utah (2)
Colorado (2)	Indiana (2)	Montana (2)	Oklahoma (7)	Virginia
District of Columbia	Kansas	Nebraska (2)	Oregon	West Virginia (2)
Florida (3)				

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### NOTES:

- (1) Alabama's corporate income tax statute is vague on how the state is to determine what portion of a corporation's income is to be attributed to the state for tax purposes. On September 6, 1967, the Alabama Legislature enacted the Multistate Tax Compact, which includes UDITPA, subject to congressional enactment of a Multistate Tax Compact Consent Bill. On September 12, 1967, the Alabama Department of Revenue promulgated regulations which adopt the UDITPA provisions as the basis on which to determine the amount of a corporation's income which is attributable to a state.
- (2) This state adopted UDITPA by enacting the Multistate Tax Compact.
- (3) Florida enacted the Multistate Tax Compact in 1969. When it enacted its corporate income tax in 1971, it deleted UDITPA from its statutes. Yet its corporate income tax statute is substantially in accord with UDITPA. Florida gives 50% weight to the sales factor.
- (4) Georgia's payroll and sales factors differ, but only slightly.
- (5) Massachusetts is included as a UDITPA state because it closely follows the UDITPA apportionment formula. Massachusetts adopted the 3-factor formula in 1920 and UDITPA codified that formula. However, rather than source, UDITPA adopted destination for sales, subject to the condition that the seller be subject to the jurisdiction of the destination state. In 1966, Massachusetts changed to destination basis, but subject to the current modification that non-nexus sales are Massachusetts sales if they are not sold by third state based salesmen. Unlike UDITPA, all income, including intangible income, is put into the Massachusetts tax base with the sole exclusion of dividends received from corporations, but not trusts or DISCS, in which the receiving corporation owns more than 15% of the voting stock. Massachusetts gives 50% weight to the sales factor.
- (6) New Hampshire is included here as a UDITPA state even though its property factor is somewhat different.
- (7) Although Oklahoma has not technically adopted UDITPA, its law appears to be sufficiently close to enable Oklahoma to be considered a UDITPA state.

# Appendix D

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## Sales and Use Tax Jurisdiction Limitations Statement

The following is the Sales and Use Tax Jurisdiction Limitation Statement with which all states, to the best of our knowledge, comply:

### Sales and Use Tax Jurisdiction Standard

A vendor is required to pay or collect and remit the tax imposed by this Act if within this state he directly or by any agent or other representatives:

1. Has or utilizes an office, distribution house, sales house, warehouse, service enterprise or other place of business; or
2. Maintains a stock of goods; or
3. Regularly solicits orders whether or not such orders are accepted in this state, unless the activity in this state consists solely of advertising or of solicitation by direct mail; or
4. Regularly engages in the delivery of property in this state other than by common carrier or U.S. mail; or
5. Regularly engages in any activity in connection with the leasing or servicing of property located within this state.

This state does not seek to impose use tax collection requirements on any retailer over whom the above standard does not confer jurisdiction in this state.

# Appendix E

## Uniform Sales & Use Tax Certificate Form

**SALES AND USE TAX CERTIFICATE  
MULTI-JURISDICTION**

(See reverse side for instructions)

Name of Seller: \_\_\_\_\_ Address: \_\_\_\_\_

I certify that:

Name of Purchaser		
Street Address or P.O. Box No.	City	State
		Zip Code

and

is engaged as a registered

Wholesaler  
 Retailer  
 Manufacturer  
 Lessor. \*See note on reverse side.)  
 Other (Specify): \_\_\_\_\_

is registered with the below listed states and cities within which your firm would deliver purchases to us and that any such purchases are for wholesale, resale, ingredients or components of a new product to be resold, leased, or rented in the normal course of our business. We are in the business of wholesaling, retailing, manufacturing, leasing (renting) the following:

State of Business			
City or State	State Regulation or ID No.	City or State	State Regulation or ID No.
City or State	State Regulation or ID No.	City or State	State Regulation or ID No.
City or State	State Regulation or ID No.	City or State	State Regulation or ID No.

I further certify that if any property so purchased tax free is used or consumed by the firm as to make it subject to a Sales or Use Tax we will pay the tax due direct to the proper taxing authority when state law so provides or inform the seller for added tax billing. This certificate shall be part of each order which we may hereafter give to you, unless otherwise specified, and shall be valid until canceled by us in writing or revoked by the city or state.

General description of products to be purchased from the seller: \_\_\_\_\_

Under penalties of perjury, I swear or affirm that the information on this form is true and correct as to every material matter.

Authorized Signature (Owner, Partner or Corporate Officer) \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

(Reverse Side)

**TO OUR CUSTOMERS:**

In order to comply with the majority of state and local sales tax law requirements, it is necessary that we have in our files a properly executed exemption certificate from all of our customers who claim sales tax exemption. If we do not have this certificate, we are obligated to collect the tax for the state in which the property is delivered.

If you are entitled to sales tax exemption, please complete the certificate and send it to us at your earliest convenience. If you purchase tax free for a reason for which this form does not provide, please send us your special certificate or statement.

This form of certificate has been determined to be acceptable to the following states:

Alabama	Maine	Rhode Island
Alaska	Massachusetts	South Carolina
Arizona	Maryland	South Dakota
Arkansas	Michigan	Tennessee
Colorado	Minnesota	Texas
Connecticut	Missouri	Utah
District of Columbia	Nebraska	Vermont
Georgia	Nevada	Washington
Idaho	New Mexico	Wisconsin
Illinois	North Dakota	West Virginia
Iowa	Oklahoma	Wyoming
Kansas	Pennsylvania	

**NOTE:**

Arizona law provides that a seller will be held liable for sales tax due on any sales with respect to which an exemption certificate is found to be invalid, for whatever reason.

Illinois, Iowa, and South Dakota do not have an exemption on sales of property for subsequent lease or rental.

**CAUTION TO SELLER:**

In order for the certificate to be accepted in good faith by the seller, the seller must exercise care that the property being sold is of a type normally sold wholesale, resold, leased, rented, or utilized as an ingredient or component part of a product manufactured by the buyer in the usual course of his business. A seller failing to exercise due care could be held liable for the sales tax due in some states or cities.

Misuse of this certificate by the seller, lessor, buyer, lessee, or the representative thereof may be punishable by fine, imprisonment or loss of right to issue certificates in some states or cities.